

2007 DRAFTING REQUEST

Assembly Amendment (AA-ASA1-SB40)

Received: **06/27/2007**

Received By: **rkite**

Wanted: **As time permits**

Identical to LRB:

For: **Legislative Fiscal Bureau**

By/Representing: **Rushmer**

This file may be shown to any legislator: **NO**

Drafter: **rkite**

May Contact:

Addl. Drafters:

Subject: **Nat. Res. - boats snomos ATVs**

Extra Copies:

Submit via email: **YES**

Requester's email:

Carbon copy (CC:) to:

Pre Topic:

LFB:.....Rushmer -

Topic:

Noise limit exceptions for air boats

Instructions:

See attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?							
/1	rkite 06/29/2007	lkunkel 06/29/2007	jfrantze 06/29/2007	_____	cduerst 06/29/2007		
/2	rkite 07/03/2007	csicilia 07/03/2007	nnatzke 07/03/2007	_____	cduerst 07/03/2007		

FE Sent For:

<END>

2007 DRAFTING REQUEST

Assembly Amendment (AA-ASA1-SB40)

Received: 06/27/2007

Received By: rkite

Wanted: As time permits

Identical to LRB:

For: Legislative Fiscal Bureau

By/Representing: Rushmer

This file may be shown to any legislator: NO

Drafter: rkite

May Contact:

Addl. Drafters:

Subject: Nat. Res. - boats snomos ATVs

Extra Copies:

Submit via email: YES

Requester's email:

Carbon copy (CC:) to:

Pre Topic:

LFB:.....Rushmer -

Topic:

Noise limit exceptions for air boats

Instructions:

See attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?							
/1	rkite 06/29/2007	lkunkel 06/29/2007	jfrantze 06/29/2007	_____	cdurst 06/29/2007		

FE Sent For:

1295 7/3
07

nwn 7/3
nwn 7/3

<END>

2007 DRAFTING REQUEST

Assembly Amendment (AA-ASA1-SB40)

Received: 06/27/2007

Received By: rkite

Wanted: As time permits

Identical to LRB:

For: Legislative Fiscal Bureau

By/Representing: Rushmer

This file may be shown to any legislator: NO

Drafter: rkite

May Contact:

Addl. Drafters:

Subject: Nat. Res. - boats snomos ATVs

Extra Copies:

Submit via email: YES

Requester's email:

Carbon copy (CC:) to:

Pre Topic:

LFB:.....Rushmer -

Topic:

Noise limit exceptions for air boats

Instructions:

See attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	rkite	1/mk 6/29	J	Ball			
			6/29				

FE Sent For:

<END>

Fill this form out in its entirety prior to submitting to your Working Group Chair and the Working Group Staff Lead.

Save and e-mail completed form to both Chair and Staff Lead.

Nerison

ER

Assembly Republican Caucus 2007-09 Budget Motion Request

Date: June 19, 2007

Legislator: Nerison

Staff Contact: Sandra

Working Group Motion Pertains To: Natural Resources and Stewardship

Agency: DNR

Statement of Motion Intent: *Provide a short description summarizing the intent of your motion.*

Exempt air boats from statutory noise limits when the air boats are used by trappers while engaged in trapping during the trapping season.

Summary: *Provide a thorough description of your motion. Please attach all supporting documentation (i.e.: copy of bill draft or introduced legislation, Fiscal Bureau paper, motion offered in JFC, etc.).*

Cleanhouse
rule

06-039

modify the decimal

NR 5.125(6) exemption

Fiscal Impact:

Funding Source (if applicable):

RNK

Clearinghouse Rule 06-039

ORDER OF THE STATE OF WISCONSIN NATURAL RESOURCES BOARD CREATING RULES

The Wisconsin Natural Resources Board proposes an order to create NR 5.125(1)(d) relating to sound testing methods for airboats.

LE-23-06

Analysis Prepared by Department of Natural Resources

1. Statutes interpreted.

Section 30.62(2)(b), (d)2. and 3., Stats.

2. Statutory authority.

Section 30.62(2)(d)2, Stats.

3. Explanation of agency authority to promulgate the proposed rules under the statutory authority.

The proposed rule creates a new noise testing method for testing all noise related to boat operation which the department is authorized to enforce, under s. 30.62(2)(b), Stats., and which the department is authorized to create under s. 30.62(2)(d)2., Stats. The department is required to enforce the noise statutes, but needs to develop a testing procedure that will allow it to test boats it currently does not have the ability to do safely under current testing methods.

4. Related statute or rule.

s. 30.62(2)b), Stats., and s. NR 5.125

5. Plain language analysis of the proposed rule.

The proposed rule will allow the department to test airboats and other similar craft to assure that they meet the required sound levels when operating. This will be a new method based on the methodology established in Society of Automotive Engineers test method J 1970.

6. Summary of and preliminary comparison with existing or proposed federal regulation that is intended to address the activities to be regulated by the proposed rule.

There are no existing or proposed federal regulations that create a test to address the testing of airboat type craft.

7. Comparison of similar rules in adjacent states (Minnesota, Iowa, Illinois, and Michigan)

Of the four states:

Minnesota's sound laws apply to airboats, but they are not aware of anyone enforcing the law against airboat prop noise.

In Michigan they do not measure prop noise, but they do require that airboats stay a distance away from residences and that from 11PM to 6 AM if operating within 400' of a residence that they operate at

minimum speed to maintain forward motion.

In Iowa they do not enforce prop noise as their law was not intended for prop noise.

In Illinois they utilize the J1970 sound test, but they don't clarify whether they test airboats.

8. Summary of the factual data and analytical methodologies that the agency used in support of the proposed rule and how any related findings support the regulatory approach chosen for the proposed rule.

Airboats and other air propulsion driven boats are commonly used on shallow rivers and on some lakes within Wisconsin. These boats create movement by either using forced air to push the boat forward or by lifting the boat up with air pressure and then moving it forward with forced air. In looking at the safety concerns when testing these type of craft, a method is needed to address the safety concerns of operating these craft at higher rates of speed to test the sound levels without creating safety concerns for the public, the boat operator or the testing officer. By using currently approved testing methodology and taking into consideration the safety distances needed, the department believes that the proposed rule will address the needs of the department in testing these boats with a safe and technically sound testing process.

9. Analysis and supporting documentation that the agency used in support of the agency's determination of the rules effect on small businesses under s. 227.114, Stats., or that was used when the agency prepared an economic impact report.

Wisconsin law exempts the sound requirements for commercial or nonrecreational fishing boat, ferry, or other vessel engaged in interstate or international commerce, other than a tugboat. We believe that there may be some airboats that are used for commercial trapping or fishing that do not involve interstate or international commerce. These boats would most likely be illegal to operate if tested under the proposed rule.

10. Effects on small business, including how the rule will be enforced.

The rule is anticipated to affect approximately 150+ airboats that are used for commercial trapping and fishing. The rule would be enforced on them as long as they operate in the waters of the state. This rule will not affect those that only operate on the frozen waters of the state as there is not statutory authority to apply the sound law to the boats when they are operating solely on the ice.

11. Agency contact person (including e-mail and telephone number).

William Engfer – LE/5
Bureau of Law Enforcement
Department of Natural Resources
PO Box 7921
Madison, WI 53707-7921
phone: (608) 266-0859
email: william.engfer@dnr.state.wi.us

12. Place where comments are to be submitted and deadline for submission.

Written comments may be submitted until June 9, 2006 to Mr. William Engfer. Comments may be electronically submitted at the following internet site: <http://adminrules.wisconsin.gov>

SECTION 1. NR 5.125(1)(d) is created to read:

NR 5.125(1)(d) When the J1970 test method is used for testing airboats, hovercraft or other air propulsion type watercraft, the test shall be conducted at a minimum of 300 feet from the boat being tested.

SECTION 2. EFFECTIVE DATE. The rule shall take effect the first day of the month following publication in the Wisconsin administrative register as provided in s. 227.22(2)(intro.), Stats.

SECTION 3. BOARD ADOPTION. The rule was approved and adopted by the State of Wisconsin Natural Resources Board on _____.

Dated at Madison, Wisconsin _____

STATE OF WISCONSIN
DEPARTMENT OF NATURAL RESOURCES

By _____
Scott Hassett, Secretary

(SEAL)

Report to
Legislative Council Rules Clearinghouse
NR 5, Wis. Adm. Code
Natural Resources Board Order No. LE-23-06

Wisconsin Statutory Authority

s. 30.62(2)(b), (d)2. and 3., Stats., interpreting s. 30.62(2)(d)2., Stats.

Federal Authority

N/A

Court Decisions Directly Relevant

None

Analysis of the Rule - Rule Effect - Reason for the Rule

Section 30.62(2)(a), Stats., requires all boat sounds to meet the level of 86 DB or less in order to be legal. The current tests that the department uses are designed for motor exhaust noise or they are not safe to perform on airboats or hovercraft type boats when measuring noise other than muffler or exhaust noise. In 2005, the department was notified of concerns that it was not enforcing the noise requirements on airboats that we applicable to all other boats. Currently airboats and hovercraft have to meet the 86 db sound level as it relates to their engine exhaust noise, but there is no test that would allow for the safe testing of the propeller and fan noise. The proposed rule change in the testing process would utilize Society of Automotive Engineers test J1970 but would take into consideration the safety concerns when testing propeller and fan types of watercraft. The test contains step-by-step instructions for measuring noise from boats.

Agency Procedures for Promulgation

Public hearings, Natural Resources Board final adoption, followed by legislative review.

Description of any Forms (attach copies if available)

None

Name and Telephone Number of Agency Contacts

Bill Engfer, Bureau of Law Enforcement – 266-0859
Michael Lutz, Bureau of Legal Services – 267-7456
Carol Turner, Bureau of Legal Services - 266-1959

Submitted on April 11, 2006



State of Wisconsin
2007 - 2008 LEGISLATURE

LRBb0745/?

RNK:.....

lnk

LFB:.....Rushmer - Noise limit exceptions for air boats

FOR 2007-09 BUDGET -- NOT READY FOR INTRODUCTION

ASSEMBLY AMENDMENT ,

TO ASSEMBLY SUBSTITUTE AMENDMENT 1,

TO 2007 SENATE BILL 40

1 At the locations indicated, amend the substitute amendment as follows:

2 1. Page 457, line 8: after that line insert:

3 "SECTION 725k. 30.62 (2) (g) 5. of the statutes is created to read:

4 30.62 (2) (g) 5. An airboat ~~when~~ ^{while} used by a person who is trapping during the
5 open season for trapping."

6 (END)

Kite, Robin

From: Rushmer, Erin
Sent: Monday, July 02, 2007 8:39 AM
To: Kite, Robin
Cc: Gibson-Glass, Mary
Subject: air boat draft 0745

Robin- On draft 0745, I think it should say during **an** open season for trapping established by DNR, rather than "the" open season for trapping because there is more than one season for trapping (different seasons for different animals). Thanks,
-Erin

Erin Rushmer

*Legislative Fiscal Analyst
Wisconsin Legislative Fiscal Bureau
ph. (608) 266-3847
fax (608) 267-6873
Erin.Rushmer@legis.state.wi.us*



State of Wisconsin
2007 - 2008 LEGISLATURE

Rm run
2
LRBb0745/1
RNK:lmk:jf
Stays

LFB:.....Rushmer - Noise limit exceptions for air boats

FOR 2007-09 BUDGET -- NOT READY FOR INTRODUCTION

ASSEMBLY AMENDMENT ,

TO ASSEMBLY SUBSTITUTE AMENDMENT 1,

TO 2007 SENATE BILL 40

1 At the locations indicated, amend the substitute amendment as follows:

2 **1.** Page 457, line 8: after that line insert:

3 **"SECTION 725k.** 30.62 (2) (g) 5. of the statutes is created to read:

4 30.62 (2) (g) 5. An airboat while used by a person who is trapping during the
5 ^{can} open season for trapping."

6 (END)



State of Wisconsin
2007 - 2008 LEGISLATURE

LRBb0745/2
RNK:lmk:nwn

LFB:.....Rushmer – Noise limit exceptions for air boats

FOR 2007-09 BUDGET -- NOT READY FOR INTRODUCTION

ASSEMBLY AMENDMENT,

TO ASSEMBLY SUBSTITUTE AMENDMENT 1,

TO 2007 SENATE BILL 40

1 At the locations indicated, amend the substitute amendment as follows:

2 **1.** Page 457, line 8: after that line insert:

3 **“SECTION 725k.** 30.62 (2) (g) 5. of the statutes is created to read:

4 30.62 (2) (g) 5. An airboat while used by a person who is trapping during an
5 open season for trapping.”.

6 (END)